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DOCKET NO.: 9491-013-27

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Re: Serial No.: 09/138,091
Applicant(s): CAMELLIA W. ADAMS, ET AL.
Filing Date: AUGUST 21, 1998
For: AGONIST ANTIBODIES
Group Art Unit: 1647
Examiner: SPECTOR, L.

SIR:

Attached hereto for filing are the following papers:

RESPONSE TO ELECTION OF SPECIES

Our check in the amount of \$ -0- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary extension of time to make the filing of the attached documents timely, please charge or credit the difference to Deposit Account No. 50-1442. Further, if these papers are not considered timely filed, then a request is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

PIPER MARBURY RUDNICK & WOLFE LLP

08-06-01
Date

Steven B. Kelber
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Docket No. 9491-013-27

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: CAMELLIA W. ADAMS, ET AL. GAU: 1647

SERIAL NO: 09/138,091

EXAMINER: SPECTOR, L. #21
AUG 06 2001
103
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SIR:

Responsive to the Election of Species dated July 13, 2001, Applicants elect, albeit with traverse, species 12D5 for further prosecution at this time.

REMARKS

The Examiner has required an election of a single disclosed species, as well as an identification of the claims readable thereon for prosecution on the merits. Applicants elect, albeit with traverse, as a species, nucleic acids encoding antibody Ab5. Applicants respectfully submit that Claims 46-57 are readable thereon. In particular, Claim 50 recites Ab5 itself, which includes a set of specific CDRs, and Claim 49 recites 12D5, which includes the CDRs of Ab5.

Applicants traverse on the basis that examination of all of the claims would not pose an undue burden on the Examiner. Section 803 of The Manual of Patent Examining Procedure states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” The Examiner notes “...search of more than a single set of

nucleic acid sequences is deemed to present an undue burden on the resources of the US Patent and Trademark Office". The claims in this application present a single set of nucleic acid sequences identified by SEQ ID NOS for examination. Therefore, Applicants submit that it would not pose an undue burden on the Examiner to examine all of the claims pending in this application.

In view of the above, the election of species is believed to be improper and Applicants respectfully request that the election of species requirement be reconsidered and withdrawn such that Claims 46-57 are examined in this application.

Applicants submit that the application is now in condition for examination on the merits. Early notification of such action is earnestly solicited.

Respectfully submitted,

PIPER RUDNICK MARBURY & WOLFE, LLP

Date: 08-06-01



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